

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of DAVID KRANZ, Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

EARL KRANZ,

Respondent-Appellant,

and

TONJA PAVICH

Respondent.

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In the Matter of JENNIFER LUST, JARED LUST,  
JACK KRANZ, and BRANDY KRANZ, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

EARL KRANZ,

Respondent-Appellant,

and

JUDY KRANZ, WILLIAM S. MCCREADY, and  
JEFFREY LUST,

Respondents.

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UNPUBLISHED

January 13, 2005

No. 254029

Kent Circuit Court

Family Division

LC No. 03-003901-NA

No. 254030

Kent Circuit Court

Family Division

LC No. 03-004000-NA

In the Matter of JENNIFER LUST, JARED LUST,  
JACK KRANZ, and BRANDY KRANZ, Minors.

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FAMILY INDEPENDENCE AGENCY,

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JUDY KRANZ,

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and

EARL KRANZ, WILLIAM S. MCCREADY, and  
JEFFREY LUST,

Respondents.

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Before: Hoekstra, P.J., and Griffin and Borrello, JJ.

PER CURIAM.

In these consolidated appeals in this child protection proceeding, respondents-appellants Earl Kranz and Jennifer Kranz appeal as of right from the trial court's dispositional orders following an adjudicative trial in which the court found a statutory basis for jurisdiction over the minor children pursuant to MCL 712A.2(b)(1) and (2). We affirm.

In a child protection proceeding, it is not necessary that a trial court find jurisdiction relative to each parent. The trial court's jurisdiction is tied to the children. *In re CR*, 250 Mich App 185, 205; 646 NW2d 506 (2001). At the adjudicative trial, unless otherwise provided in the court rules, the rules of evidence for a civil proceeding and the standard of proof by a preponderance of the evidence apply. MCR 3.972(C)(1). The "verdict must be whether one or more of the statutory grounds alleged in the petition have been proven." MCR 3.972(E); see also *In re S R*, 229 Mich App 310; 314; 581 NW2d 291 (1998).

In this case, neither respondent-appellant has briefed any issue concerning whether the trial court committed evidentiary error at trial. Rather, respondents-appellants' arguments are directed at the findings made by the trial court based on the evidence. Given that respondents-appellants have not briefed any evidentiary issue in their respective appeal briefs, any challenge to the admissibility of the evidence is deemed abandoned. The failure to brief the merits of an allegation of error is deemed an abandonment of the issue. *In re JS & SM*, 231 Mich App 92, 98; 585 NW2d 326 (1998).

The trial court did not clearly err in finding that a statutory basis for jurisdiction under MCL 712A.2(b)(1) and (2) was established by a preponderance of the evidence with respect to each child. MCR 3.902(A); MCR 2.613(C); MCR 3.972(C)(1) and (E); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The evidence indicated that respondents were married, but each had children from a prior relationship. Critical to the principal allegation involving respondent Earl Kranz, was his alleged sexual abuse of a daughter who was not a subject of the temporary custody petition, and who lived with her biological mother in Indiana. Petitioner alleged that Earl Kranz had more recently made inappropriate sexual remarks to his stepdaughter (respondent Judy Kranz's biological daughter), describing his sexual fantasies to her and asking to see her naked. Petitioner's allegations regarding Judy Kranz were directed at whether she believed and supported the girls, as well as her concern for the other children's safety regarding this matter.

As the trial court observed, whether the allegations of inappropriate sexual conduct by Earl Kranz were sufficiently proven turned on the credibility of Earl Kranz's daughter and stepdaughter, each of whom testified at the trial. Giving deference to the trial court's superior opportunity to observe and determine the credibility of these witnesses, we are not persuaded that the trial court clearly erred in determining that the witnesses were credible, and that the allegations of Earl Kranz's sexual abuse of his daughter and inappropriate remarks to his stepdaughter were therefore sufficiently proven. *In re Miller, supra* at 337.

We reject respondent Judy Kranz's claim that the trial court erred in evaluating her lack of support for the children. Although there was evidence that Judy Kranz took supportive action when first confronted with the girls' claims by having Earl Kranz leave the family home, the evidence indicated that Judy Kranz subsequently expressed disbelief in the girls' allegations. Judy Kranz's conduct toward her daughter, examined in light of the trial court's determination that the daughter's testimony was credible, was sufficient to support a reasonable inference of a substantial risk of harm to her daughter's mental well-being. Thus, the trial court's findings with respect to each respondent's conduct were sufficient to establish jurisdiction over Judy Kranz's daughter, as well as the other children who were named in the petition. *In re Powers*, 208 Mich App 582; 528 NW2d 799 (1995).

The trial court's findings regarding the allegations of educational neglect and parental discipline with a board causing bruises further support the court's assumption of jurisdiction over the children. Contrary to Judy Kranz's claim on appeal, the trial court did not clearly err in finding by a preponderance of the evidence that her use of a cutting board to discipline the children supported a statutory basis for jurisdiction. *In re Miller, supra* at 337. Judy Kranz's discontinued use of the board after being confronted with the FIA investigation and court intervention was relevant to the question of disposition, rather than the trial court's determination of jurisdiction.<sup>1</sup>

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<sup>1</sup> We decline to address Judy Kranz's inquiry whether Julie Thornes should have been allowed  
(continued...)

Further, the trial court did not clearly err in finding by a preponderance of the evidence that excessive absences of the children in middle school and kindergarten demonstrated that both respondents neglected their educational needs. Evidence that the children's school attendance improved after a truancy referral and the commencement of a child protection investigation in January 2003 did not preclude the trial court from finding educational neglect. The trial court's decision indicates that it found that the allegations in the petition, as amended in the course of its decision, were true. The relevant statutory grounds for jurisdiction are set forth in MCL 712A.2(b)(2) and the "mental well-being" provision of MCL 712A.2(b)(1).

We disagree with Judy Kranz's claim that educational neglect does not fall within the ambit of the mental well-being aspect of MCL 712A.2(b)(1), which was alleged in the petitions. Even if it would have been more appropriate to allege this circumstance as falling within the specific educational neglect language of MCL 712A.2(b)(1), the allegations in the petition were sufficient to give Judy Kranz actual notice of the circumstances amounting to educational neglect. Any defect was therefore technical and does not warrant reversal. *In re Slis*, 144 Mich App 678, 684; 375 NW2d 788 (1985).

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Richard Allen Griffin  
/s/ Stephen L. Borrello

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(...continued)

to testify concerning Judy Kranz's statements about the discipline. We deem this issue abandoned because respondent failed to raise it in her statement of the questions presented and does not cite any authority in support of her position. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).